

State of California

Franchise Tax Board-Legislative Services Bureau
PO Box 1468 MS A350
Sacramento, CA 95812-1468

Telephone: (916) 845-4326
ATSS: (916) 468-4326
FAX: (916) 845-5472

Legislative Change No.**07-20**Bill Number: AB 198 Author: Committee On Budget Chapter Number: 07-381Laws Affecting Franchise Tax Board: Sections 17942 and 19394 of the Revenue and Taxation CodeDate Filed with the Secretary of State: October 10, 2007SUBJECT: Limited Liability Company (LLC) Fee/Remedy For Final Court Decisions**Assembly Bill 198 (Committee On Budget), as enacted on October 10, 2007, made the following changes to laws impacting the Franchise Tax Board:**Section 17942 of the Revenue and Taxation Code is amended.

This act determines an LLC's fee based on the LLC's total income from all sources derived from or attributable to the state. The level of activity is determined by applying the current law's franchise/income tax sales factor rules to the total income of the LLC (as defined in the act) to calculate the amount of total income from all sources derived from or attributable to the state to determine an LLC's fee.

Section 19394 of the Revenue and Taxation Code is added.

This act provides that if the LLC fee is adjudged to be discriminatory or unfairly apportioned, any taxpayers that filed timely claims for refund asserting that the LLC fee is discriminatory or unfairly apportioned in violation of the California Constitution or the laws or Constitution of the United States will have the amount of their fee recalculated in an amount necessary to remedy the discrimination or unfair apportionment.

This act is a tax levy and is effective immediately upon enactment. The new rule for determining total income derived from or attributable to California is specifically operative for taxable years beginning on or after January 1, 2007, and contains a "no inference" clause with respect to taxable years beginning before January 1, 2007.

The statutory remedy specifically applies to lawsuits filed before, if not final, the date of enactment, and to lawsuits filed on or after the date of enactment.

This act will not require any reports by the department to the Legislature.

Assistant Bureau Director

Patrice Gau-Johnson

Date

10/31/07